

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on October 20, 2011, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

MEMBERS PRESENT: Tim Thoms, Chairman
Al Gilbert, Vice-Chairman
Jim Graw
Douglas Powell

MEMBERS ABSENT: Bill Beckwith

STAFF PRESENT: Pete Frisina, Director of Community Development
Tom Williams, Asst. Director of Planning & Zoning
Dennis Dutton, Zoning Administrator
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

Welcome and Call to Order:

Chairman Thoms called the Public Meeting/Workshop to order and introduced the Board Members and Staff.

Doug Powell noted there were no members of the public present.

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1. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Sec. 5-47. Standards for Telecommunications Antennas and Towers.

Pete Frisina stated the BOC had four (4) specific questions about the telecommunication towers ordinance:

1. What constitutes a complete tower application?
2. Staff vs Board of Commissioners approval of variances for tower height and should a tower application go before the Board of Commissioners for approval?

Pete Frisina reported he explained to the BOC that there is not a variance for tower heights; however, the two (2) mile separation between towers was reduced to 1.50 miles and the 1,000 feet to an off-site residence was reduced to three (3) times the tower height or 500 feet, whichever is greater. He said one of the commissioners questioned the reduction of the distance from an off-site residence.

3. A “good neighbor policy” of establishing a distance for cell towers from adjacent municipalities and counties.

4. Public notification of a proposed tower site.

Pete Frisina presented the following matrix:

TELECOMMUNICATIONS TOWERS: COMPARISON OF LOCAL ZONING CODES				
Jurisdiction	Zoning	Heights	Setbacks	Separations
Cobb	By Special Use Permit in most districts. Public hearing waived for multi-tenant towers up to 150'.	Allows up to 150 foot tower. Infers that higher tower would require full public hearing process.	40' from Res property - external setback = height of tower to nearest residential structure.	Any tower of 90' must be minimum of 1/4 mile from other > 90' tower.
Gwinnett	Permitted in C1, C2, C3, OI, OBP, M1 & M2 Districts.	Up to 125' for 3 tenants; 150' for 4 tenants.	One-half of tower height from prop line. 100 percent of tower height from off-site res.	In districts other than C1, C2, C3, OI, OBP, M1 & M2, towers over 100' are not permitted within 1,500' of another 100+ ft. tower.
Coweta	Must locate in highest priority site: 1-Gov't owned; 2-Co-locate on existing; 3 - areas zoned for (3) business, (4) agriculture, or (5) residential.	Not to exceed 150 feet without proof of technical need.	110% of tower height to residential structure or public road.	
Henry	Incl. all zoning dists.	Max heights vary: Res Ag=150' for 2 tenants; 180' for 3 tenants. SF/2F=75; MF, MHP & C1=90'. OI=120'; C2=C2=150'; C3=180'; M1 = 190' & M2=200'.	50% of tower ht.+50% of ht over 75'.(eg,100' tower requires 50' +22.5' for a total 72.5' setback).	Tower >150' tall must be at least 1/4 mile from any other tower >150' tall unless evidence is provided that it can't support add'l array. (Exempts C2,C3,M1,M2).
Cherokee	Allowed in GC, HI, LI, AG, R15, 20, 30, 40, 60 & 80	Encourages co-location. New locations must provide an inventory of all facilities w/in 1/4 mile of property and must be designed as alternative tower structures.	Setback from each property is equal to height of tower.	Towers > 90' tall must be a minimum of 1/4 mile from any other tower > 90' tall.
Fayette			3 times tower height of minimum or 500 feet (which ever is greater) from off-site res	
Albany			One-half of tower height from prop line. 100 percent of tower height from off-site res.	

Pete Frisina pointed out Fayette County has much greater requirements for off-site residences.

Al Gilbert said the previous amendments were not drastic amendments because the ordinance started out so stringent.

Jim Graw added the reason for the setback is for safety purposes and the minimum should be the height of the tower and the current ordinance ensures extra safety.

Doug Powell pointed out the current ordinance only addresses an off-site residence but not an accessory structure, such as a guest house. He added he did not like the idea of allowing a telecommunication tower to fall across a property line which our current ordinance does not allow.

The PC stated they were comfortable with the current distance from off-site residences and setbacks from adjacent property lines.

Pete Frisina presented the proposed amendments to the telecommunication tower ordinance as follows:

ARTICLE III. DEFINITIONS

Tower, Planned. Any tower that is in the public hearing procedure, site application review process, or has been approved, but not yet constructed (see Article V.)

ARTICLE V. GENERAL PROVISIONS

Sec. 5-47. Standards for Telecommunications Antennas and Towers. (Amended 05/26/11)

- A. *Purpose and Intent.* The purpose of this ordinance is to establish minimum development standards for the regulation of commercial telecommunications transmission towers, including, but not limited to: cellular and Personal Communications Systems (PCS) towers, broadcasting towers, two-way radio towers, fixed-point microwave dishes, commercial satellites and receiving dishes, and related equipment cabinets and/or buildings. The intent of this ordinance is: (1) to implement the provisions of the Telecommunications Act of 1996, on a local level; (2) to control placement of towers and antennas in a way that minimizes the adverse visual impact to nearby properties by locating towers and antennas in non-residential areas or in areas where the adverse impact on the community is minimal; and (3) to advocate the shared use of new and existing tower sites through co-location, thereby discouraging the proliferation of towers throughout Fayette County.
- B. *Authority.* Only the Board of Commissioners has the authority to reduce or waive the requirements under this section through the public hearing procedure.
- C. *Applicability.*
 - 1. *District Height Limitations.* Height limits specified for each zoning district shall not apply to towers and antennas. The requirements set forth herein shall govern the height of towers and antennas.

2. *Governmentally Owned Property.* These requirements shall not apply to any governmentally owned property, including: properties owned by the Board of Commissioners, Board of Education, or a municipality, as well as, the State or Federal government, that are used for the location of any tower facility.
 3. *Amateur Radio Antennas.* This ordinance shall not govern any amateur radio tower, or the installation of any antenna, that is less than 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator.
 4. *Pre-Existing Towers and Antennas.*
 - a. Any tower or antenna which existed prior to December 10, 1998 (**may need a new date?**), that does not comply with the requirements herein shall be deemed legally nonconforming. Any enlargement of a pre-existing tower or tower facility, shall meet the requirements herein. Co-location of an antenna which does not increase the height of the tower or placement of additional equipment cabinets or buildings within the existing tower facility shall be allowed under the provisions of Site Plan Requirements.
 - b. Replacement of a pre-existing legally nonconforming tower structure is permitted provided that all of the following apply:
 - i. The replacement tower is constructed within 25 feet of the existing tower and is not greater in height than the existing tower.
 - ii. The tower being replaced is removed from site within 90 calendar days from the issuance of the Certificate of Occupancy for the replacement tower;
 - iii. Additional co-location opportunities on the new tower are made available with the minimum users required based on tower height; and
 - iv. A site plan indicating the location of the replacement tower shall be required.
- D. *General Requirements.*
1. Towers and tower facilities shall be on a lot which meets the minimum ~~lot size~~ **requirements** for the zoning district in which it is located. Towers and tower facilities may be located on a lot containing another use. Towers and tower facilities may occupy a leased area being a portion of the lot.
 2. Internal setbacks for towers, tower facilities, and anchors shall be measured to the boundaries of the lot, not the boundaries of the leased area. Setbacks for towers shall be measured from the base of the tower.
 - a. All towers shall be set back from all adjoining properties zoned residential or A-R a distance equal to the height of the tower plus 10 feet.
 - b. All towers shall be set back from all adjoining properties zoned non-residential a distance of 100 feet.
 - c. All towers shall be set back from the street right-of-way (existing or required) a distance equal to the height of the tower. Street right-of-way is based on the classification of the street (see County Code, Development Regulations.)
 - d. All towers, excluding alternative tower structures, shall be set back from any off-site residence a distance equal to three (3) times the tower height or a minimum of 500

feet, whichever is greater.

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- e. Any tower facility and anchors for guyed towers shall comply with the minimum required setbacks and/or buffers of the applicable zoning district.
- f. All towers shall be set back from all adjacent municipalities and counties a distance of one-half (0.5) statute miles.**
- 3. Towers located on the same lot as a private school or day care center shall be set back a distance equal to the height of the tower from all facilities, excluding parking areas. This provision shall not apply to an alternative tower structure which is allowed in conjunction with a Private School Conditional Use.
- 4. All towers, excluding alternative tower structures, shall be structurally designed to accommodate the following minimum numbers of carriers based on height of the tower:
 - a. up to 70 feet : one (1) carrier;
 - b. greater than 70 up to 120 feet : two (2) carriers;
 - c. greater than 120 feet up to 150 feet : three (3) carriers;
 - d. greater than 150 feet up to 180 feet : four (4) carriers;
 - e. greater than 180 feet up to 250 feet : five (5) carriers; and
 - f. greater than 250 feet: six (6) carriers.
- 5. All tower facilities, excluding tower facilities associated with alternative tower structures, shall be enclosed by a steel chain link fence not less than eight (8) feet in height, with slat inserts for screening. Access to the telecommunication tower shall be through a locking gate. In addition, a minimum of three (3) strands of barbed wire shall be used along the top of the fence to prevent unauthorized access to the tower.
- 6. A landscaped strip 10 feet in width surrounding the perimeter of the tower facility shall be required. Landscaping shall be staggered double rows of evergreen trees a minimum of six (6) feet in height when planted and spaced every 10 feet on center. Landscaping shall be installed on the outside of the required security fence. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Zoning Administrator may determine that natural growth around the property perimeter may be sufficient in lieu of the required landscaping. If existing vegetation is to remain and requested to count toward the landscaping requirements, all such information, including location, size, and type of vegetation shall be indicated on the site/landscape plan. These requirements shall not apply to a tower facility associated with an alternative tower structure.
- 7. Maximum height for all towers and antennas is 500 feet. Tower height shall be measured from the natural grade of the ground at the location of the tower to the highest point of the tower, including any antenna. If minimal grading (elevation of one [1] to two [2]) feet above natural grade) is required to level the ground for the tower base, tower height shall be measured from the finished grade approved by the County Engineer.
- 8. No signage shall be placed on a tower structure or antenna.
- 9. *Inventory of Existing or Planned Tower Sites.* **(Commentary: Only require this for a tower that cannot meet the tower separation distance which will have to go to public hearings. Also, consider hiring an outside tower professional to review like Peachtree**

City (\$4,500) and Gwinnett County (\$6,000) which entails a large fee to cover the cost of the

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professional.) No new tower shall be permitted to encroach into the required tower separation distance through a waiver or reduction unless the applicant demonstrates to the satisfaction of the County that no existing tower or any planned towers can accommodate the applicant's proposed antenna. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. All of the following shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna:

Pete Frisina said he is recommending that the inventory should only be required for a tower going through a public hearing because they can't meet the separation distance from another tower. He remarked if a tower can meet the separation, he sees no need for the inventory report. He pointed out Peachtree City and Gwinnett County hire an outside tower professional (radio frequency engineer) to review telecommunication tower applications with a fee, paid by the tower company, ranging from \$4,500 to \$6,000. He commented the staff does not have the expertise to review the reports. He added Peachtree City began requiring the tower professional this year; however, Gwinnett County began in 2009.

Jim Graw expressed concern about a proliferation of towers where towers are not needed. He said he would like to see proof of why a tower is needed. He commented he did not feel comfortable not requiring the inventory list. He remarked he would at least like to review the towers in the area and if there is any ability to co-locate. He said he would prefer to hire the radio frequency engineer if that is what it takes. He added the PC previously discussed hiring an outside tower professional when the ordinance was being developed.

Pete Frisina reiterated the staff does not have the expertise to review the reports and rebut a radio frequency engineer. He explained if a tower complies with the separation distance between towers, staff could not deny their application.

Doug Powell commented he would prefer to see an existing tower increase its height for a carrier than to see another tower constructed even if the proposed tower complies with the current ordinance.

Jim Graw asked what the current fee was for a tower application.

Pete Frisina replied \$150.00.

Al Gilbert expressed concern of charging the higher review fee for a radio frequency engineer when the proposed tower complies with the tower separation requirement. He said a business person is not

going to spend the money building a new tower if he could co-locate on an existing tower and meet the service area.

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Pete Frisina advised some tower companies only build the towers and are not involved in co-locating on the tower. He said their business is to construct the tower and carriers will come to it so the inventory would not be applicable. He commented staff has been mapping towers but it does not indicate the number of carriers or who the carriers are; however, the FAA has an inventory of towers.

Doug Powell said in order to stop the proliferation of towers, hiring the radio frequency engineer may be the best route for the county. He stated the county has an expert to tell us about roads, water runoff, and homes but not an expert to tell us about towers. He remarked the citizens expect to be protected from the proliferation of towers.

Al Gilbert expressed concern about the increased fee which seemed to be tightening the ordinance instead of expediting the ordinance. He said a tower had never been built in the County without carriers.

Pete Frisina advised the county had this happen for the first time; however, the proposed tower complied with the current ordinance.

Jim Graw stated he would like to add a requirement for a proposed tower to have at least one (1) leasing carrier or the tower could not be constructed.

The PC concurred and commented they thought a tower was required to have carriers.

Al Gilbert expressed concern about constructing the tower without carriers prior to the construction of the tower. He added he did not want to see a “spec” tower.

Chairman Thoms concurred.

Pete Frisina explained a tower has no coverage area only the carriers have a coverage area.

Tom Williams asked if the county should keep inventory of towers, the towers’ carriers, and height of availability for additional carriers.

Doug Powell concurred.

Al Gilbert pointed out there may be space on an existing tower but the available space may not be the height required for the carrier to service the area.

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Doug Powell replied then he would prefer to see the existing tower raise its height than to see a new tower constructed.

Jim Graw concurred.

Al Gilbert commented the inventory should be required to cover the towers in the general vicinity, the search area, and what carriers are located on each tower.

Jim Graw said he could see three (3) options: 1) delete the inventory of existing or planned tower sites unless the proposed tower cannot meet the separation requirement; 2) require the inventory and require it to be signed; and 3) require the inventory to be reviewed by a tower professional, radio frequency engineer.

Pete Frisina stressed he has concerns about staff approving something based on a submitted report which staff may not have the expertise to evaluate correctly.

Doug Powell replied he would not want to be put in that position.

Chairman Thoms suggested deleting D., 9., a., iv. He said the inventory should be items which staff can measure.

Jim Graw suggested deleting D., 9., a., iii. He commented staff should retain the items which staff is knowledgeable about and delete the remaining items.

Al Gilbert remarked he did not have a problem requiring the names of carriers planning to co-locate on the proposed tower; however, if there are none, he does not see the need for the proposed tower.

Doug Powell concurred.

Pete Frisina replied the current ordinance does not require carriers for a proposed tower.

Dennis Dutton said he did not feel comfortable denying a tower because they do not have a carrier at that time.

Al Gilbert expressed concern about the high fee for hiring a radio frequency engineer.

The PC could not reach a consensus.

- a. Each applicant for a new tower and antenna shall contact the owners of all existing and planned tower sites, including those located within the zoning jurisdictions of municipalities and/or other counties, that are within the search area of the applicant=s proposed tower or antenna location, and provide the Planning and Zoning Department with an inventory of said tower sites at the time of application submittal.
The inventory shall include the following information:
 - i. All tower owners and the number of carriers for each tower site;
 - ii. The site location, total height, and design type of each tower;
 - iii. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant=s engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;
 - iv. Other limiting factors that render existing towers and structures unsuitable; and
 - v. Letters of rejection for requests to co-locate on all existing and planned towers within the service area of the proposed tower.
 - b. The Planning and Zoning Department may share such information with other applicants applying for approval under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided; however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 - c. If it is determined that the applicant cannot feasibly locate an antenna on an existing tower or planned tower, the applicant shall demonstrate that the proposed new tower is designed to accommodate the required number of carriers.
10. *Aesthetics and Lighting Requirements.* The following compatibility standards shall govern the aesthetics and lighting of any tower facility, including the installation of antennas on towers.
- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and equipment cabinets shall be architecturally compatible with, the color and texture of the supporting structure. Roof mounted equipment cabinets shall be screened so as to make the equipment visually unobtrusive.
 - c. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- ~~11. *Federal Requirements.* All towers shall meet current standards and regulations of the~~

~~Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antenna,~~

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~~including modulation studies on frequency usage, to avoid interference with existing systems in operation.~~

The PC concurred.

- ~~12. *Building Codes and Safety Standard Requirements.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards or that such tower constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 60 days to bring such tower into compliance.~~

The PC concurred.

Al Gilbert asked what protects the county if the tower is not maintained after it has been built for several years.

Pete Frisina replied the county does not perform inspections on the tower; however, if someone filed a complaint, the Permits and Inspections Department would contact the owner of the tower and require corrections.

Pete Frisina submitted handouts regarding details about the FCC and FAA tower registration. Said handout is attached hereto and made a part hereof.

Pete Frisina advised the telecommunication tower ordinance for Albany, Georgia, adopted in February, 2011, only addresses the city regulations because a tower is required to comply with the FCC and FAA requirements. He added this is the way he would like to see the telecommunication tower revised.

13. *Removal of Abandoned Antennas and Towers.* Prior to the abandonment of any tower or antenna, a copy of the notice of Intent to Abandon required by the FCC shall also be submitted to the Fayette County Planning and Zoning Department. Any antenna or tower, including pre-existing towers and antennas, that is not in use for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

14. *Performance Bond Required.* Prior to the issuance of a Certificate of Occupancy for a new tower structure, every applicant shall be required to deposit a performance bond with Fayette

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County. The amount of the bond shall be equal to 10 percent of the total construction cost or a minimum of \$5,000, whichever is greater. Such bond shall be required upon compliance with all aspects of this section and shall be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any Certificate of Zoning Compliance issued by the Planning and Zoning Department. The required performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The approved format of the bond is available in the Planning and Zoning Department.

- E. *Supplemental Requirements.* In addition to the General Requirements above, the following Supplemental Requirements shall apply as specified below.
1. *Highway Corridor.* Locating towers along the following highway corridors is permitted as an overlay zone provided all the following requirements are met:
 - a. The State and County Highways included within the Highway Corridor are S.R. 54, S.R. 85, S.R. 92, S.R. 74, S.R. 314, S.R. 279, S.R. 138, and 85 Connector.
 - b. The Highway Corridor tower overlay zone permits towers in any zoning district when located within 1,000 feet of the right-of-way on either side of the aforementioned roads in unincorporated areas of Fayette County.
 - c. Towers in excess of 250 feet in height in the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
 - d. All new towers, excluding alternative tower structures, located within the Highway Corridor that are 70 feet or greater in height shall not be located within one (1) statute mile from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing governmentally-owned towers where co-location is not permitted or from alternative tower structures.
 2. *Outside of the Highway Corridor.*
 - a. Outside of the Highway Corridor, a tower may be located only in the following zoning districts:
Manufacturing and Heavy Industrial District (M-2);
Light Industrial District (M-1);
Highway Commercial District (C-H);
Community Commercial District (C-C);
Agricultural Residential (A-R); and
R-70 Single-Family Residential District.
 - b. Towers in excess of 180 feet in height outside of the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
 - c. All new towers, excluding alternative tower structures, located outside of the Highway Corridor that are 70 feet or greater in height shall not be located within one and one-half (1.50) statute miles from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum

distance requirement shall not apply from existing government-owned towers where co-location is not permitted or from alternative tower structures.

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3. *Alternative Tower Structures.*

- a. The purpose of an alternative tower structure is to diminish, camouflage, or conceal the appearance of towers and antennas to reduce the visual impact on surrounding properties and streets. Depending on the nature of the site, the proposed alternative tower structure shall be appropriate and in character with its surroundings. For example, the use of a monopine is more fitting on a site with stands of mature trees; whereas, the use of a flag pole or light pole alternative tower structure is more suitable for the developed portion of a site.
- b. Alternative tower structures shall comply with the General Requirements herein with the exception of the setback requirements from off-site residences, security fencing requirements, landscape requirements, and tower separation requirements of both the Highway Corridor and outside of the Highway Corridor. Alternative tower structures shall be allowed in the Highway Corridor, outside of the Highway Corridor in the zoning districts listed herein, and in conjunction with the following existing Conditional Uses:
 - i. Church or Other Place of Worship;
 - ii. Developed Residential Recreational/Amenity Areas;
 - iii. Private School; and
 - iv. Telephone, Electric, or Gas Sub-Station or Other Public Utility Facilities.
- c. Alternative tower structures, in conjunction with the above listed Conditional Uses, shall meet the setbacks established in the General Requirements or the Conditional Use setbacks, whichever is greater.
- d. An alternative tower in excess of 120 feet in height shall require public hearings before the Planning Commission and Board of Commissioners.
- e. A maximum of one (1) alternative tower structure shall be allowed per lot.
- f. The alternative tower structure shall match the visual simulation depiction and engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site.
- g. *Design Review and Approval Process:* Alternative tower structures shall go through a Design Review and Approval Process before the Planning Commission. The purpose of this Design Review and Approval Process is to determine that the alternative tower structure type is appropriate for the site and surrounding area and set requirements for the alternative tower structure type, placement on the site, equipment structures, fencing and landscaping. The Design Review and Approval Process application shall include the following:
 - i. An analysis of the nature and character of the site and how the alternative tower structure is appropriate in context to the site and the view from surrounding properties and streets;
 - ii. A visual simulation consisting of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a

minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets; and

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- iii. Engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site which shall indicate all applicable requirements herein.
- h. *Monopine Towers.*
 - i. Monopine towers shall maintain the natural conical appearance of a loblolly pine tree. Antennas shall be placed a minimum of five (5) feet below the top of the tower, as measured from the highest point of the antenna to maintain said appearance.
 - ii. Foliage shall be green in color and the tower shall be brown in color. The antennas shall be green to blend with the foliage and the foliage shall extend a minimum of one (1) foot beyond the antennas. The foliage shall be UV resistant to reduce degradation and fading and constructed to withstand winds of 110 MPH, certification of such shall be supplied with the application. Foliage shall be placed on the tower down to the height of the foliage of surrounding trees. The structure shall have sufficient limbs at the time of initial installation so that there is no gap between the existing canopy and the lower most limbs of the monopine.
 - iii. The installation of the foliage on the monopine shall be installed prior to final inspections. Foliage on the monopine shall be maintained and/or replaced to the specifications established by the engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site to retain the screening of the antennas. Upon notice from the County that the foliage is in need of maintenance and/or replacement, the tower owner shall have 90 days to make such repairs.
- i. Flag pole and light pole alternative tower structures shall utilize internal antennas and slick stick design. Flag poles utilized as an alternative tower structure shall be exempt from Article V. *General Provisions, Structures Permitted above the Height Limit.*
- F. *Public Hearings Required to Reduce or Waive Requirements.*
 - 1. Public hearings before the Planning Commission and Board of Commissioners are necessary to reduce or waive requirements for a proposed tower, antenna, or equipment cabinet or building that cannot comply with the General Requirements, and/or Supplemental Requirements. The procedure for said public hearings shall follow the procedure for rezoning (see Article XI.) Applicants shall apply for public hearings through the Planning and Zoning Department. The application with deadline submittal and public hearing dates is available in the Planning and Zoning Department. The application shall include the following:
 - a. A scaled Concept Plan, drawn on the signed/sealed survey, graphically indicating the lot and leased area, total tower height including antennas, type and design of the

tower structure, the boundary of the tower facility, all applicable setbacks (both on and off-site), ingress/egress, landscaping areas, and zoning of the subject property and adjacent property;

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- b. An Inventory of Existing or Planned Tower Sites per the standards listed under Supplemental Requirements;
 - c. A balloon test shall be conducted prior to the public hearings. The balloon shall be flown for a minimum of four (4) daylight hours from the location of the proposed tower, at the requested height. The application shall include the date and time of the balloon test and an alternative date, in case of inclement weather. The initial balloon test shall be held on a Saturday and the alternative date may be held on any day of the week. A sign announcing the dates of the balloon test shall be posted on the property by the County a minimum of five (5) calendar days prior to the initial balloon test; and
 - d. The applicant shall submit a visual simulation, based on the balloon test, a minimum of seven (7) calendar days prior to the Planning Commission public hearing. Failure to meet this deadline will postpone the tower application to the next scheduled cycle of public hearings. The visual simulation shall consist of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets. An Affidavit certifying that the correct location and height of the tower were utilized in the balloon test shall be submitted with the visual simulation photographs.
2. *Factors Considered in Public Hearing Applications.* The following factors shall be considered when evaluating a tower application:
- a. Height of the proposed tower;
 - b. Distance of the tower to residential structures and residential zoning district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Topography of the site and its effect on the efficiency of the tower in terms of coverage;
 - e. Surrounding tree coverage and foliage and its effect on the efficiency of the tower in terms of coverage, as well as, its effect on the visual impact of the tower on surrounding properties and streets;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress; and
 - h. The degree of the tower's compliance with the one (1) statute mile separation (inside the Highway Corridor) or one and one-half (1.5) statute mile separation (outside the Highway Corridor.)

In granting its approval to waive or reduce requirements, the County, through the Board of Commissioners or its designee, may impose conditions that are necessary to minimize the adverse effect of a proposed tower or antenna on adjoining property. A site application shall

be submitted within 60 days of the date of approval by the Board of Commissioners or the proposed tower will no longer be deemed a planned tower.

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- G. *Site Application Requirements.* All applicants for new tower construction shall include the following:
- a. completed application forms signed and notarized;
 - b. proof of ownership of the parent tract (latest recorded Warranty Deed);
 - c. site plan prepared by an Engineer, Architect, or Landscape Architect registered by the State of Georgia;
 - d. landscape plans (see General Requirements);
 - e. provide number of carriers based on maximum height of tower;
 - f. ~~provide inventory of Existing or Planned Tower Sites (see General Requirements);~~

Pete Frisina stated f. should not be deleted if the inventory is going to be required.

- ~~g. a report including all tower specifications and a description of the tower with technical reasons for its design;~~
- ~~h. documentation establishing the structural integrity for the tower-s proposed uses;~~
- ~~i. the general capacity of the tower and information necessary to assure that ANSI standards are met;~~
- ~~j. a statement of intent on whether excess space will be leased;~~

Jim Graw suggested amending j. to read: the names of the lessees;

- ~~k. a copy of the Determination of No Hazard to Air Navigation from the FAA; and~~
- ~~l. a copy of the Carrier's FCC license (as applicable for an antenna).~~

Site Plan Requirements. All tower applicants for new towers shall be required to submit a scaled site plan which complies with all applicable requirements of the Development Regulations (see County Code.) Additional information indicated on the site plan shall include:

- a. a signed/sealed survey by a land surveyor registered in the State of Georgia of the parent tract, leased area, and ingress/egress easement, indicating the metes and bounds for each;
- b. total tower height including antennas;
- c. type and design of any tower facility, including location of equipment buildings or cabinets;
- d. distance from nearest off-site residences;
- e. fencing and gate details;
- f. all applicable setbacks for the tower, tower facility, and anchors for guyed tower, as applicable;
- g. distance between towers;
- h. zoning and acreage of parent tract;
- i. zoning of adjacent property; and
- j. other information necessary to assess compliance with this ordinance.

Any information of an engineering nature that the applicant submits, whether civil, mechanical, or

electrical, shall be certified by a licensed professional engineer. Site plan submittal shall include completion of a tower application, signed and notarized by both the property owner and the tower company representative/agent.

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The following scenarios shall not require submittal of a site plan:

- a. Installing an antenna on an existing structure, so long as said installation adds no more than 20 feet to the height of said existing structure (including buildings, light/utility poles, water towers, or other free standing non-residential structures excluding signs and towers.)
- b. Co-locating an antenna on any existing tower, so long as, said installation does not exceed the maximum height of administrative tower approval for that location and complies with all applicable conditions of approval associated with the tower site.
- c. Enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site which does not require an enlargement of the existing tower facility.

Prior to the placement or co-location of any antenna, enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site, the applicant shall provide written notice to the Zoning Administrator. The notice shall include a depiction of the location, size, and configuration of such antenna on the existing tower and equipment location within the existing tower facility in reference to an existing site plan and a certification from a licensed professional engineer verifying that the antenna will comply with wind load requirements and weight limits for the structure or tower as designed and installed. A Zoning Compliance Form shall be issued by the Zoning Administrator upon satisfaction of the above requirements, and any applicable building permits/inspections shall be required.

- H. *Site Application Timeframes.* The County shall act on applications for co-locations within 90 days, and all other applications within 150 days. **An application shall not be accepted for review unless it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded Warranty Deed), and site plan prepared by an Engineer, Architect, or Landscape Architect registered by the State of Georgia.** The Zoning Administrator has 30 days to determine if an application is complete. If the Zoning Administrator requests additional information within the 30 day review period, the time it takes the applicant to respond will not count towards the 90 or 150 day time limits. Upon notice that an application is incomplete, the applicant has 30 days to submit all information necessary to complete the application. Failure to complete the application in this timeframe shall result in an automatic withdrawal of the application, ~~and the~~ proposed tower will no longer be deemed a planned tower, **and a site application shall not be submitted for the same property for 60 days.**

Jim Graw presented the following: An applicant submits a signed and notarized application, latest recorded Warranty Deed, but no site plan and another applicant is waiting in line behind the first applicant who submits a signed and notarized application, latest recorded Warranty Deed, and site plan. He confirmed the clock would start clicking for the second applicant and the information provided by the first applicant would be given back to the first applicant.

Doug Powell clarified the first applicant could resubmit so that if the second applicant is kicked out after 60 days then the first applicant could be approved soon thereafter.

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Al Gilbert added the first applicant could apply for public hearings.

Pete Frisina explained if an applicant has to go for public hearings, he would have 60 days after the public hearing approval to submit an application. He added if an applicant does not submit an application within 60 days and another applicant submits an application on day 61 then the first application is kicked out.

- I. *Tower Approval Expiration.* Approval of a site application by the applicable departments for a tower shall expire 12 months from the date of approval and will no longer be deemed a planned tower, unless a Certificate of Occupancy has been issued for the tower or the building permit remains active.

Pete Frisina said he would do more research and review the ordinance further so it can be discussed at the November Public Meeting/Workshop. He advised he was to report back to the BOC on December 7, 2011.

* * * * *

2. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Auxiliary Structures as a Conditional Use in the A-R Zoning District.

The proposed amendments regarding auxiliary structures were presented as follows:

ARTICLE III. DEFINITIONS

Artist Studio. *A structure accommodating the practice of the full spectrum of the arts including, but not limited to: fine arts, visual arts, and performing arts.*

Auxiliary Structure. *A structure allowed which is incidental and secondary to a residence.*

Training Facility, Indoor. *A structure used for indoor training.*

Note: (insert in alphabetical order)

ARTICLE V. GENERAL PROVISIONS

Sec. 5-20. Accessory Structures and Uses.

- A. The following accessory structures and uses are permitted in A-R and all residential zoning

districts. Farm outbuildings, ***including horse stables, auxiliary structures,*** and commercial greenhouses are regulated as Conditional Uses under Article VII. and shall be allowed in the

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A-R Zoning District only. One (1) semi-trailer may be utilized as a farm outbuilding provided the property is zoned A-R and the semi-trailer is being used to store agricultural items. These regulations shall not apply to those nonresidential uses allowed in A-R and residential zoning districts.

1. Well/pump house;
2. Guest house;
3. Greenhouse (for private use);
4. Swimming pool, pool deck, pool equipment enclosure, and pool screen enclosure;
5. Garage;
6. Recreational court;
7. Gazebo;
8. Cabana, covered patio, and covered deck;
9. Storage building;
10. Carport;
11. Solar panel (ground-mounted);
12. Wind turbine/windmill (ground-mounted);
13. Aircraft Hangar, detached (see Article VII.);
14. Dog house and dog pen/run;
15. Playhouse; and
16. Outdoor kitchen and/or fireplace.

Jim Graw suggested deleting the following from Sec. 5-20.,A. and relocate as a paragraph under 16.: Farm outbuildings, ***including horse stables, auxiliary structures,*** and commercial greenhouses are regulated as Conditional Uses under Article VII. and shall be allowed in the A-R Zoning District only. One (1) semi-trailer may be utilized as a farm outbuilding provided the property is zoned A-R and the semi-trailer is being used to store agricultural items. These regulations shall not apply to those nonresidential uses allowed in A-R and residential zoning districts.

- D. *Location on Lot.* Accessory structures shall conform to the dimensional requirements within each zoning district. No structure shall be located in the front yard except: a detached garage (see 1. and 2. below for requirements); well/pump house consisting of 70 square feet or less; or farm outbuildings, ***including horse stables, auxiliary structures,*** and commercial greenhouses located in an A-R Zoning District, where the lot consists of five (5) acres or more. A well/pump house of 70 square feet or less may be located within the setbacks. On a single frontage lot, the area between the street and the front building line shall be treated as a front yard with regard to the location of accessory structures. On a corner lot, the area between both of the streets and both of the front building lines shall be treated as a primary front yard and a secondary front yard with regard to the location of accessory structures. On a through lot, the area between the street from which the lot is accessed and the front building line shall be treated as a front yard with regard to the location of accessory

structures.

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ARTICLE VI. DISTRICT USE REQUIREMENTS

(Amended 07/28/11) (Amended 08/25/11)

Sec. 6-1. A-R Agricultural - Residential District.

- C. *Conditional Uses.* The following Conditional Uses shall be allowed in the A-R Zoning District provided that all conditions specified in Article VII. Conditional Uses, Nonconformances, Transportation Corridor Overlay Zone, and Commercial Development Standards are met:

9. Farm Outbuildings, including Horse Stables, Auxiliary Structures, and Commercial Greenhouses;

ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES, TRANSPORTATION CORRIDOR OVERLAY ZONE, AND COMMERCIAL DEVELOPMENT STANDARDS

21. *Farm Outbuildings, including Horse Stables, Auxiliary Structures, and Commercial Greenhouses.* (Allowed in the A-R Zoning District)
- a. *Farm Outbuilding.* All structures permitted in this category shall be structures related to a bonafide farming operation and shall be utilized as a barn for livestock, storing farm equipment, and any other agricultural purposes. Farm outbuildings shall be exempt from architectural standards.
- b. *Horse Stables.* All structures permitted in this category shall be related to the bonafide shelter and/or boarding of horses. Riding lessons and boarding only shall be permitted; however, a site plan shall be required for these uses. Horse Stables are exempt from architectural standards (see Article V.)
- c. *Auxiliary Structures. All structures permitted in this category shall comply with the following:*
- i. *Auxiliary structures shall be utilized for personal use only by the residents of the principal structure.*
- ii. *Auxiliary structures may be utilized as a noncommercial training facility and/or artist studio.*
- iii. *Acoustical treatment (soundproofing) shall be required to mitigate the volume of sound that has the potential of generating noise levels audible to the adjacent properties.*
- iv. *Commercial/retail activity shall not be permitted.*
- v. *An auxiliary structure shall not be utilized in conjunction with a Home Occupation.*

- d. *Commercial Greenhouses.* All structures permitted in this category shall be structures related to a bonafide cultivation or production of landscape planting materials. Commercial greenhouses shall be exempt from architectural standards.

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- e. Farm size over 10 acres, no restriction of size or number of farm outbuildings, horse stables, auxiliary structures, and commercial greenhouses, ~~and horse stables~~.
- f. Farm size five (5) to 10 acres, one (1) detached farm outbuilding, auxiliary structure, commercial greenhouse, or horse stable consisting of a maximum of 1,800 square feet in size.

Farm outbuildings, auxiliary structures, horse stables, and commercial greenhouses may: have plumbing and electricity, but shall not be used for residential purposes; Farm outbuildings, horse stables, and commercial greenhouses shall not be located within 100 feet of the principal residential structure or connected to any structures on site. Farm outbuildings, horse stables, and/or commercial greenhouses may be constructed prior to the principal residential structure.

The PC concurred they were in favor of the proposed amendments.

Pete Frisina advised the proposed amendments would be made a part of the overall review of the Zoning Ordinance.

* * * * *

3. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding Illegal Nonconforming Lots.

Tom Williams pointed out the current ordinance only addresses a legal nonconforming lot of record. He presented a handout of Clayton County's ordinance regarding nonconforming structures, lots, and uses. Said handout is attached hereto and made a part hereof. He also presented a handout from Washington State regarding Special Exceptions, Conditional Uses and Variance, Planning Series #7 which addresses a Dimensional Variance. Said handout is attached hereto and made a part hereof.

Tom Williams said the issue is how to deal with illegal nonconforming lots. He stated rezoning had been discussed; however, there would be times with the proposed zoning district would not be in compliance with the Land Use Plan. He advised another alternative would be a text amendment to allow a variance to be granted. He stated possible criteria to be considered could be the date of nonconformity; issuance of permits; changes of ownership; status of development; and viable alternatives.

Doug Powell stated granting a rezoning which is not in compliance with the Land Use Plan may

establish a precedent. He said he preferred considering a variance with established criteria.

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Al Gilbert suggested adding the word “exception” to the current zoning district such as: R-40 Exception or A-R Exception. He said if someone’s home is destroyed by an Act of God, fire, or whatever, or if they wanted to enlarge their home, he wanted them to have the ability to rebuild.

Pete Frisina asked who gets the break, the tenth owner of the illegal nonconforming lot created 10 years ago or the person who created an illegal nonconforming lot two (2) months ago.

Doug Powell replied this is why he prefers a variance with established criteria for granting a variance.

Jim Graw commented the ZBA considers “unique” cases.

Chairman Thoms pointed out in some cases a rezoning and variance approvals may be necessary.

Pete Frisina said there are basically three (3) options: 1) rezoning if in compliance with the Land Use Plan; 2) variance approval; or 3) create a sub-zoning category (exception.) He stated he would like to develop the options to be reviewed by the County Attorney.

Al Gilbert expressed concerns about a straight rezoning if it was not in compliance with the Land Use Plan and preferred the sub-zoning category (exception.) He also expressed concern about approving a variance on a 4.5 acre tract zoned A-R.

Tom Williams suggested creating a zoning category for a nonconforming lot such as NCL followed by an “R” for residential or a “C” for nonresidential.

Al Gilbert said the County Attorney should advise which is the strongest in protecting the land use, a variance or a sub-zoning category (exception.)

Pete Frisina said the proposed amendments would be discussed further at the November Public Meeting/Workshop prior to submittal to review for the County Attorney.

* * * * *

Chairman Thoms asked if there was any further business. Hearing none, Doug Powell made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 4-0. Members

voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Jim Graw, and Doug Powell. Bill Beckwith was absent. The Public Meeting/Workshop adjourned at 9:45 P.M.

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PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

TIM THOMS
CHAIRMAN

ROBYN S. WILSON
P.C. SECRETARY